

ADA Requirements for Curb Ramps

I. BACKGROUND

Title II of the Americans with Disabilities Act (ADA) of 1990 requires that public entities, including state and local governments, ensure that persons with disabilities have access to the pedestrian routes in the public right of way. An important part of this requirement is the obligation whenever streets, roadways, or highways are *altered* to provide curb ramps where street level pedestrian walkways cross curbs. This requirement is intended to ensure the accessibility and usability of the pedestrian walkway for persons with disabilities.

The United States Department of Justice (DOJ) and the Federal Highway Administration (FHWA) released a joint technical assistance guidance (Technical Assistance) in June 2013 clarifying ADA Title II requirements to provide curb ramps when streets, roads, or highways are *altered* through certain types of resurfacing treatments. This Technical Assistance (http://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm) applies to all State and local government projects (not just Federal-aid projects). The Technical Assistance provides **clarification** and addresses past inconsistency of interpretation by FHWA pertaining to a specific type of roadway treatment being considered *maintenance* (not requiring the installation or upgrade of curb ramps) or *alteration* (requiring the installation or upgrade of curb ramps) when there is a pedestrian walkway with a prepared surface for pedestrian use and a curb, elevation, or other barrier between the street and the walkway.

II. POLICY

Certain types of resurfacing treatments shall be considered an *alteration* that triggers the requirement to add curb ramps if it involves work on a street or roadway spanning from one intersection to another, and includes overlays of additional material to the road surface, with or without milling. Crosswalks constitute distinct elements of the right-of-way intended to facilitate pedestrian traffic. Regardless of whether there is curb-to-curb resurfacing of the street or roadway in general, resurfacing of a crosswalk also requires the provision of curb ramps at that crosswalk. The following roadway treatments shall be considered an *alteration*:

- Open-graded Surface Course
- Cape Seals
- Mill & Fill / Mill & Overlay
- Hot In-Place Recycling
- Microsurfacing / Thin Lift Overlay
- Addition of New Layer of Asphalt
- Asphalt and Concrete Rehabilitation and Reconstruction
- New Construction

Treatments that serve solely to seal and protect the road surface, improve friction, and control splash and spray shall be considered *maintenance* because they do not significantly affect the public's access to or usability of the road. The following types of treatments shall be considered *maintenance*:

- Crack Filling and Sealing
- Surface Sealing
- Chip Seals
- Slurry Seals



- Fog Seals
- Scrub Sealing
- Joint Crack Seals
- Joint Repairs
- Dowel Bar Retrofit
- Spot High-Friction Treatments
- Diamond Grinding
- Pavement Patching

In some cases, the combination of several maintenance treatments occurring at or near the same time may qualify as an *alteration* and would trigger the obligation to provide curb ramps.

A glossary of terms in the Technical Assistance can be found at:
<http://www.ada.gov/doj-fhwa-ta-glossary.htm>.

III. PROCEDURE

Diligent efforts should be made to comply with this clarification and the Local Agencies need to ensure their internal programs and guidance conform to this guidance. Implementation of this guidance should incorporate the following:

- **For all resurfacing projects that are scheduled to go out to bid for construction prior to July 1, 2014:** Projects may be completed as initially scoped without incorporating the clarification provided in the Technical Assistance. Within the project limits, any curb ramp improvements that are not scoped into the project and do not comply with the 1991 or current ADA standards will need to be listed in the local agency's transition plan.
- **For all resurfacing projects that will go out to bid for construction on or after July 1, 2014:** *Alteration* projects identified per the clarification provided in the Technical Assistance guidance must incorporate required curb ramps. Any existing nonconforming curb ramps within the project limits must be upgraded to comply with the current ADA Standards.
- **Indefinite Delivery/Indefinite Quantity ("on-call") contracts:** Contracts must be immediately modified so future task orders reflect this clarification.

IV. APPLICABILITY/IMPACTS

This Office Bulletin applies to all transportation projects regardless of funding source. There may be environmental and right of way impacts.

Recommended:	Original Signed By Rajalingam Valluvan, Assistant Process Review Engineer	<u>3/17/2014</u> Date
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